

HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SIERRA CLUB, *et al.*,

Plaintiffs,

and

THE SPOKANE TRIBE OF INDIANS,

Plaintiff-Intervenor,

v.

REGIONAL ADMINISTRATOR OF THE  
ENVIRONMENTAL PROTECTION  
AGENCY, *et al.*,

Defendants,

and

SPOKANE COUNTY; KAISER  
ALUMINUM WASHINGTON LLC; and  
STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY,

Defendant-Intervenors.

No. C11-1759BJR

STIPULATED JOINT MOTION TO  
ESTABLISH A MODIFIED SUMMARY  
JUDGMENT BRIEFING SCHEDULE,  
AND ORDER

1 Defendants the Regional Administrator of the Environmental Protection Agency, et al.  
 2 (collectively “EPA”), Defendant-Intervenor State of Washington, Department of Ecology,  
 3 Defendant-Intervenor Spokane County, and Defendant-Intervenor Kaiser Aluminum Washington  
 4 LLC jointly submit this motion to extend the date for these parties to file their cross-motions for  
 5 summary judgment and oppositions to Plaintiffs’ motion for summary judgment, which was filed  
 6 on July 2, 2021 (Doc. 238), and to set a comprehensive briefing schedule and format for the  
 7 remaining briefing on these summary judgment motions. Plaintiffs Sierra Club and Center for  
 8 Environmental Law & Policy (collectively “Sierra Club”) and Plaintiff-Intervenor Spokane Tribe  
 9 of Indians stipulate to this motion.  
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 12 The grounds for this joint motion and proposed stipulated briefing schedule are as  
 13 follows:

14 1) Plaintiff Sierra Club filed on July 2, 2021, a motion for summary judgment on  
 15 their claim under the Clean Water Act that EPA a has nondiscretionary duty to issue a total  
 16 maximum daily load (“TMDL”) for polychlorinated biphenyls (“PCBs”) for the Spokane River  
 17 and on their claim under the Administrative Procedure Act that challenges EPA’s Plan for  
 18 Addressing PCBs in the Spokane River. Doc. 238. Plaintiff-Intervenor the Spokane Tribe  
 19 joined that motion on July 6, 2021. Doc. 243.  
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21 2) Under the Court’s standing order, Defendants’ and Defendant-Intervenors’  
 22 oppositions to this motion for summary judgment is currently due July 23, 2021. These parties  
 23 each require a 28-day extension of time to file their consolidated cross-motions for summary  
 24 judgment and oppositions to Plaintiffs’ motion for summary judgment, due to conflicts with  
 25 long-scheduled family obligations and pre-existing obligations in other judicial proceedings.  
 26 These obligations include, among other things, that when Plaintiffs’ motion for summary  
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judgment was filed on July 2, 2021, counsel for Defendant-Intervenor the State of Washington was on travel on the East Coast until July 12, visiting a family member recovering from a recent serious medical procedure, and that same counsel has a reply brief due and oral argument scheduled in another case on July 19 and 23, respectively. Counsel for Washington also has previously planned vacation time in August. In addition, counsel for EPA will be on travel, for long-planned family reunions, from July 24 through August 2, and from August 9 through August 14, and plans to drive his daughter to college on August 16 through 17.

3) Given the number of parties in this case, the proposed schedule below also sets out an efficient, comprehensive process for the remaining briefing on Plaintiffs' motion for summary judgement and the Defendant and Defendant-Intervenors' cross-motions for summary judgment. To ensure efficient briefing, this schedule reduces redundancy and the pages otherwise available for each of the intervenors' briefs.

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|------|--|---------------|
| 1.A. | EPA's Opposition to Plaintiffs' Motion for SJ and Cross-Motion for SJ (limited to 30 pages)  | Aug. 20, 2021 |
| 1.B. | Oppositions to Plaintiffs' Motions for SJ and Cross-Motions for SJ, by Spokane County, Kaiser Aluminum, and the State of Washington (each limited to 20 pages) | Aug. 20, 2021 |
| 2.A. | Plaintiffs' Consolidated Opposition to the Cross-Motions for SJ and Reply in Support of Plaintiffs' Motion for SJ (limited to 30 pages)                        | Sep. 10, 2021 |
| 2.B. | Spokane Tribe's Consolidated Opposition to the Cross-Motions for SJ and Reply in Support of Plaintiffs' Motion for SJ (limited to 20 pages)                    | Sep. 10, 2021 |
| 3.A. | EPA's Reply in Support of its Cross-Motion for SJ (limited to 20 pages)  | Sep. 24, 2021 |
| 3.B. | Replies in Support of EPA's Cross-Motion for SJ, by Spokane County, Kaiser Aluminum, and the State of Washington (each limited to 10 pages)                    | Sep. 24, 2021 |

**ORDER**

IT IS SO ORDERED, on this 26<sup>th</sup> day of July, 2021.



Barbara Jacobs Rothstein  
United States District Judge

Respectfully submitted by:

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